

AUG 28 2006

Appln. No. 09/699,533Attorney Docket No. 11927/89**REMARKS****I. Office Action Summary**

Claims 1-13 are pending. Claims 1, 8 and 13 are the independent claims. In the Office Action dated July 21, 2006, the Examiner withdrew the finality of the preceding Office Action and rejected pending claims 1-13 as obvious under 35 U.S.C. §103 over the combination of Rickard et al. (US 6,016,483) and Alaia et al. (US 6,230,146).

II. Summary of Interview

Applicants and their representatives hereby thank the Examiner for the opportunity provided to discuss the present application and the cited prior art (Alaia et al., U.S. Patent No. 6,230,146 and Rickard et al., U.S. Patent No. 6,016,483) in a telephone interview on August 10, 2006. Claims 1-13 and Alaia were discussed. Applicants appreciate the Examiner's agreement to withdraw of the rejection under 35 U.S.C. § 103 based on Rickard et al. in view of Alaia et al., due to the distinguishing features discussed between the references and Applicants' claims. As requested by the Examiner, in order for further consideration, Applicants submit the following formal response incorporating the substance of the interview with the Examiner (pursuant to MPEP § 713.04) on August 10, 2006.

III. Rejections under 35 U.S.C. § 103

On page 3 of the Office Action, the Examiner rejected claims 1-13 under 35 U.S.C. § 103(a) as being unpatentable over Rickard et al. (6,016,483), in view of Alaia et al. (6,230,146).

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Upon the conclusion of the aforementioned interview with the Examiner, the Examiner's §103 rejection of claims 1-13 as obvious over the Rickard et al. and Alaia et al. references was withdrawn based on Applicants' remarks that the cited references fail to teach or suggest numerous elements of claims 1-13.

CLAIM 1

Applicants noted that Alaia et al., as well as Rickard et al., fails to teach or suggest at least the following elements as claimed in independent claim 1:

- receiving additional quotes and orders associated with the option class during a second time period and responsively updating the opening prices prior to the opening of trading; and
- randomly terminating the second time period prior to an opening rotation period such that further additional quotes and orders are not considered in updating the opening prices.

During the interview, Applicants also noted that Alaia et al. disclose a computer-based method of controlling closing times, not opening times, in an electronic auction. Specifically, Applicants discussed with the Examiner that Alaia et al. recites features teaching away from claim 1, namely:

- overtime periods have a predetermined duration, i.e. the overtime periods are not randomly terminated; (see, e.g., Col. 12, line 49 – Col. 13, line 24)
- opening price is predetermined and is not updated, and not based on an opening value of an underlying security; ("The assignee of the present application developed a system wherein sellers downwardly bid against one another to achieve the lowest market price in a supplier-bidding auction" Col. 2, lines 17-21;

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“when a bidder submits a bid, that bid is . . . evaluated to determine whether . . . the bid has exceeded a pre-determined maximum acceptable price” Col. 4, lines 5-10)

- opening of the auction is at a predetermined time, not random; (See, e.g., Col. 18, lines 31-36; Tables 1-8)
- no bids accepted prior to opening of the auction

Further, Applicants submitted that Alaia et al. discusses an auction, not a pre-opening bidding session, and thus how Alaia fails to teach or suggest at least the following:

- accepting quotes and orders associated with an option class during a first time period prior to the opening of trading;
- determining opening prices for a plurality of option series in the option class;
- receiving additional quotes and orders associated with the option class during a second time period and responsively updating the opening prices prior to the opening of trading;
- randomly terminating the second time period (or any time period) such that further additional quotes and orders are not considered in updating the opening prices prior to the opening rotation; and
- opening trading of the plurality of option series based on the updated opening prices.

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CLAIM 8

Applicants also noted that Alaia et al. fails to teach or suggest at least the following elements as claimed in independent claim 8:

- receiving quotes and orders associated with an option class during a first time period prior to the opening of option trading; and
- randomly terminating the second time period prior to an opening rotation period to open trading of the plurality of option series such that further additional quotes and orders received after termination of the second time period are not reflected in the expected opening prices.

Rather than providing for a pre-opening procedure to consider bids, Alaia discloses a fixed starting time and the ability to extend closing times for predetermined time periods as a result of known trigger events.

As discussed with the Examiner and mentioned above, Alaia et al., or Rickard et al. in view of Alaia et al., does not teach or suggest an automated opening apparatus and method expressly or inherently having the claimed requirements of Applicants' randomized opening procedure. Applicants submit that at least these features are neither taught nor suggested by Alaia et al. or Rickard et al. in view of Alaia et al., and that many of the same reasons provided above with respect to claim 1 also apply to claim 8.

As mentioned to the Examiner, an advantage of the method of claims 1 and 8 is that, by using the randomized opening procedure recited in the pending claims, the opening price is not subject to manipulation as a result of a misrepresentation of the supply, demand or underlying depth of the market. (Application as filed, page 10, lines 6-

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7).

Claims 2-7 and 10-12 are dependent claims. Applicants respectfully submit that these dependent claims are allowable for at least the same reasons as given with regard to independent claims 1 and 8, respectively.

CLAIM 13

Claim 13 is an independent claim reciting a processor configured with instructions to perform the features of claim 8. Accordingly, Applicants submit that claim 13 is allowable for at least the same reasons as provided for claim 8.

Conclusion

Having analyzed the rejections cited against the claims, it is urged that the present claims are in condition for allowance. A favorable reconsideration is requested.

In view of the aforesaid, it is also respectfully requested that Applicants receive an early Notice of Allowance.

Should any further minor objections arise or need to be attended to, the Examiner is invited to contact the undersigned attorney to discuss the matters in an effort to successfully complete the prosecution of this application.

Respectfully submitted,

Date:

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